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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,018	04/15/2004	Arthur W. Simpson	IPM1.PAU.05	7490

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EXAMINER

ROWAN, KURT C

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 10/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/825,018

Applicant(s)

SIMPSON ET AL.

Examiner

Kurt Rowan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 6, 7, 8, 11, 21, 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Dagenais.

The patent to Dagenais shows a rodent trap having an elongated tube 2 with an adhesive 4 and first and second end caps 6, 6. In reference to claim 3, Dagenais shows adhesive disposed along a central portion of the inner tube. In reference to claim 6, Dagenais discloses a rodent attractant 3 disposed within the tube 2. In reference to claims 21, 25, see column 3, lines 1-6.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dagenais as applied to claim 1 above, and further in view of Nishimura et al.

The patents to Dagenais and Nishimura show adhesive traps. Dagenais has been discussed above and does not disclose a disinfectant. The patent to Nishimura shows

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a trap with a disinfectant combined with the adhesive as in column 5, line 62. In reference to claim 2, it would have been obvious to provide Dagenais with a disinfectant as shown by Nishimura for the purpose of killing bacteria associated with the pest. This would result in the disinfectant located in the elongated tube in the adhesive. Further, it would have been obvious to locate the disinfectant in the end caps since the location of the disinfectant is a matter of design choice noting the specification of the present invention states (page 7, lines 18-20) that the disinfectant may be located on the inner surface of the tube or on an inner surface of the end caps. In reference to claims 4-5, Nishimura shows first 6 and second 6 flat axial portions of the tube in Figs. 5 and 6.

5. Claims 9-10, 12, 14, 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dagenais as applied to claim 1 above, and further in view of Cairns. The patent to Dagenais shows an adhesive elongate tube trap as discussed above, but does not disclose a circumferential flange on the end caps. The patent to Cairns shows a rodent trap having an end cap 30 with a circumferential flange (not labeled) engaging threaded port 28. In reference to claims 9, 12, it would have been obvious to provide Dagenais with a flanged or threaded end cap as shown by Cairns for the purpose of providing a more positive seal and the function is the same. In reference to claim 10, Dagenais shows a shoulder on the end cap adapted to abut an end surface of the tube. In reference to claim 14, Dagenais discloses the adhesive 4 along a central portion of the inner tube 2. In reference to claim 17, Dagenais shows a rodent attractant 3 disposed within the tube. In reference to claims 18-20, Dagenais discloses that the end

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cap seals are air tight and it would be inherent that the end caps and the seals would also be water tight.

6. Claims 13, 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dagenais in view of Cairns as applied to claim 12 above, and further in view of Nishimura.

The patents to Dagenais, Cairns, and Nishimura show adhesive traps and have been discussed above. In reference to claim 13, see the rejection of claim 2, above. In reference to claims 15-16, see the rejection of claims 4-5, above.

7. Claims 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dagenais as applied to claim 21 above, and further in view of Hover, Sr. et al.

The patent to Dagenais shows a rodent trap with an adhesive tube as discussed above. Dagenais does not disclose drowning the trapped rodents but suffocating the rodents in column 3, lines 1-6. The patent to Hover discloses drowning the rodents by submerging the elongate tube with a trapped rodent in water as disclosed in column 2, lines 37-48.

In reference to claim 22, it would have been obvious for Dagenais to drown the rodents as shown by Hover by filling the tube with water after sealing the first open end.

Further, in reference to claim 23, it would have been obvious to drown the rodents by filling the elongate tube with water and then sealing the second end of the tube to prevent water from escaping from the tube since the function is the same.

8. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dagenais in view of Hover as applied to claim 22 above, and further in view of Nishimura.

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The patents to Dagenais, Hover, and Nishimura have been discussed above. It would have been obvious to provide the elongate tube as shown by Dagenais as modified by Hover with a disinfectant as shown by Nishimura to kill bacteria associated with the rodent. The disinfectant of Nishimura appears to be active at all times both in air and in water. At any rate, it would have been obvious to employ a disinfectant that was water active to kill the bacteria when drowning the rodent.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Robin, Kingbury, Copenhaver, Orlando, and Palmeri show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Rowan whose telephone number is 703 308-2321. The examiner can normally be reached on Monday-Thursday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kurt Rowan
Primary Examiner
Art Unit 3643

KR